

Message Text

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NODIS

L FOR MR. LEIGH

EA/J FOR MR. SHERMAN

E. O. 11652: XGDS-3

TAGS: PINT, JA

SUBJ: LOCKHEED SCANDAL: TESTIMONY OF CLUTTER AND ELLIOT

1. VICE-FOREIGN MINISTER SATO HAS SOUGHT AMBASSADOR'S ADVICE ON HOW GOJ MIGHT BEST APPROACH USG FOR ASSISTANCE IN OBTAINING TESTIMONY OF CLUTTER AND ELLIOT IN DEPOSITION PROCEEDINGS PENDING BEFORE PANEL APPOINTED BY FEDERAL DISTRICT COURT JUDGE FERGUSON.

2. IT IS THEIR UNDERSTANDING OF THE GOJ THAT BOTH CLUTTER AND ELLIOT HAVE DECLINED TO TESTIFY ON THE GROUNDS THAT THEIR TESTIMONY MIGHT TEND TO INCRIMINATE THEM UNDER U.S. LAW. (AS GOJ AUTHORITIES UNDERSTAND IT, KOTCHIAN DID NOT TAKE THIS POSITION.) GOJ IS AWARE THAT PARA 8 OF THE "PROCEDURES FOR MUTUAL ASSISTANCE IN THE ADMINISTRATION OF JUSTICE IN CONNECTION WITH THE LOCKHEED AIRCRAFT CORPORATION MATTER" PROVIDES THAT THE ASSISTANCE RENDERED TO A REQUESTING STATE SHALL NOT BE REQUIRED TO EXTEND TO SUCH ACTS BY THE AUTHORITIES OF THE REQUESTED STATE AS MIGHT RESULT IN THE IMMUNIZATION OF ANY PERSON FROM PROSECUTION IN THE REQUESTED STATE. HOWEVER, IN THE VIEW OF THE JAPANESE AUTHORITIES HANDLING THIS MATTER, THE TESTIMONY OF CLUTTER AND ELLIOT IS OF SUCH POTENTIAL IMPORTANCE TO THEIR PROSECUTION OF THIS CASE THAT THEY HOPE STRONGLY A WAY CAN BE FOUND BY THE U.S. AUTHORITIES TO OVERCOME THIS OBSTACLE BY GRANTING IMMUNITY TO CLUTTER AND ELLIOT FROM PROSECUTION UNDER U.S. LAW.

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3. VICE-MINISTER SATO ACKNOWLEDGED THAT GOJ AUTHORITIES HAVE NOT

YET FOUND A WAY TO MEET FULLY JUDGE FERGUSON'S CONDITION OF THE RELEASE OF THE TESTIMONY OF KOTCHIAN ET ALL -- I.E., THAT THE JAPANESE SUPREME COURT PROVIDE A GRANT OF IMMUNITY TO PROSECUTION UNDER JAPANESE LAW -- ALTHOUGH THE JAPANESE PROSECUTOR HAS OFFERED ASSURANCES THAT THESE PERSONS WOULD NOT BE PROSECUTED IN JAPAN. THE VICE-MINISTER SAID THAT IT WAS HOPED THAT THIS PROBLEM COULD BE WORKED OUT BETWEEN THE TWO JAPANESE SUPREME COURT JUDGES NOW IN LOS ANGELES THROUGH DIRECT DISCUSSIONS WITH JUDGE FERGUSON.

4. THE VICE-MINISTER EMPHASIZED THAT PRIME MINISTER MIKI ATTACHES GREAT IMPORTANCE TO OBTAINING THIS TESTIMONY AND TO OBTAINING THE COOPERATION OF THE U.S. AUTHORITIES IN THIS MATTER. HE EVEN NOTED THAT THE PRIME MINISTER ONCE EXPRESSED THE HOPE THAT THE PRESIDENT AND THE SECRETARY OF STATE MIGHT BE MADE AWARE OF THIS REQUEST FOR FURTHER COOPERATION. HOWEVER, THE VICE-MINISTER EMPHASIZED, THE PRIME MINISTER WISHES TO AVOID ANY PUBLIC KNOWLEDGE OF THIS FURTHER REQUEST AND HAS INSTRUCTED THAT IT BE HANDLED WITH UTMOST DISCRETION SO AS NOT TO RISK ANY ADVERSE EFFECT ON U.S.-JAPAN RELATIONS. UNDER PROBING FROM THE AMBASSADOR, THE VICE-MINISTER INSISTED THAT THE PRIME MINISTER IS NOT INTERESTED IN MAKING ANY POLITICAL GESTURE, BUT ONLY IN OBTAINING THIS TESTIMONY, IF AT ALL POSSIBLE.

5. THE AMBASSADOR SUGGESTED TO THE VICE-MINISTER THAT SINCE THIS IS ENTIRELY A LEGAL MATTER IT SHOULD BE HANDLED THROUGH THOSE CHANNELS. HE ASKED WHETHER THERE WAS NOT SOME WAY THAT MINISTER OF JUSTICE INABA COULD CONVEY HIS CONCERN DIRECTLY TO ATTORNEY GENERAL LEVI. THE VICE-MINISTER REPLIED THAT HE DID NOT KNOW OF ANY CHANNEL FOR SUCH DIRECT COMMUNICATION AND IN RESPONSE TO A FURTHER QUESTION SAID THAT, SO FAR AS HE WAS AWARE, MINISTER OF JUSTICE REPRESENTATIVE HOTTA WHO HAS BEEN IN LOS ANGELES HAS NOT DISCUSSED THIS MATTER WITH USG ATTORNEYS.

6. THE AMBASSADOR THEN SUGGESTED THAT UNDER THE CIRCUMSTANCES IT WOULD SEEM BEST FOR MINISTER OF JUSTICE INABA TO CONVEY THIS REQUEST IN THE FORM OF A LETTER TO ATTORNEY GENERAL LEVI THROUGH THE JAPANESE EMBASSY IN WASHINGTON. SINCE THE GOJ WISHED TO AVOID CALLING PUBLIC ATTENTION TO THIS APPROACH, THE AMBASSADOR SUGGESTED THAT SOMEONE IN THE JAPANESE EMBASSY ARRANGE TO CALL ON LEGAL COUNSELOR LEIGH AND TO SEEK HIS ADVICE AND THE ASSISTANCE OF THE DEPARTMENT IN GETTING THE LETTER TO THE ATTORNEY GENERAL. THE AMBASSADOR ALSO

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URGED THAT THE REPRESENTATIVE OF THE JAPANESE EMBASSY DISCUSS THIS MATTER INFORMALLY WITH LEIGH FOR ANY ADVICE WHICH HE MIGHT WISH TO GIVE ON THE ADVISABILITY AND MANNER OF MAKING THE CONCERN OF THE JAPANESE AUTHORITIES KNOWN TO THE APPROPRIATE AUTHORITIES ON THE U.S. SIDE. THE VICE-MINISTER INDICATED THAT HE WOULD PROCEED ALONG THESE LINES.

7. THE JAPANESE AUTHORITIES HOPE FOR A FAVORABLE RESPONSE TO THEIR PC

RZFVEY HUPEYDXGWBZBNW#*17'2);&CCIHYOCEEDINGS AND BEFORE JUDGE F
ERGUSON LEAVES

THE LOS ANGELES AREA. WE WOULD EXPECT THE JAPANESE EMBASSY, THERE-
FORE, TO APPROACH THE DEPARTMENT WITHIN THE NEXT DAY R TWO.

8. EMBASSY ENTIRELY AGREES WITH REQUEST OF GOJ THAT THIS MATTER BE
HANDLED WHOLLY WITHOUT ANY PUBLICITY.
HODGSON

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